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7 *[Additional counsel listed on signature page]*

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 Martins Beach 1, LLC and Martins Beach 2,
LLC

11 Plaintiffs,

12 v.

13 Effie Turnbull-Sanders, Dayna Bochco, Mary
14 Luevano, Wendy Mitchell, Mary K.
15 Shallenberger, Mark Vargas, Martha McClure,
Steve Kinsey, Carole Groom, Erik Howell,
16 Roberto Uranga, Gregory Cox, John Laird,
Janelle Beland, Thomas Gibson, Betty T. Yee,
17 Anne Baker, Cindy Aronberg, Brian P. Kelly,
Bruce April, Belinda Faustinos, Trent Orr,
18 Steve Kram, Randy Pestor, Nidia Garcia-Erceg,
19 Sarah Glade Gurney, Maricela Morales, Olga
Diaz, each individually and in their official
20 capacity as the California Coastal Commission;
Lt. Gov. Gavin Newsom, Betty T. Yee, Michael
21 Cohen, each individually and in their official
22 capacities as the State Lands Commission;
Steve Monowitz, individually and in his official
23 capacity as Director of the San Mateo County
Planning and Building Department, County of
24 San Mateo, and Does 1 through 50, inclusive,

25 Defendants.
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CASE NO. 16-cv-05590-JSW

JOINT SUPPLEMENTAL STATEMENT

I. STATUS OF STATE COURT ACTIONS

A. *Friends of Martins Beach v. Martins Beach 1, LLC et al., San Mateo County Superior Court, CIV517634*

On April 27, 2016, the First District California Court of Appeal issued its decision affirming in part and vacating in part the trial court's grant of summary judgment in favor of Martins Beach 1, LLC and Martins Beach 2, LLC (hereafter, "Plaintiffs"). See *Friends of Martin's Beach v. Martin's Beach 1 LLC*, 246 Cal.App.4th 1312, 201 Cal.Rptr.3d 516 (2016), review denied and ordered not to be officially published (July 20, 2016). The court affirmed judgment as to the plaintiff's claims based on constitutional theories of access. *Id.*, 201 Cal.Rptr.3d at 524-36. The court vacated summary judgment as to plaintiff's claim based on a theory of dedication. *Id.*, 201 Cal.Rptr.3d at 536-48.

On remand, the case is set for a hearing on Plaintiffs' new motion for summary judgment on the remaining claim on September 27, 2017 and if necessary, a bench trial on October 30, 2017. Within seven (7) days of any judgment being issued by that trial court the parties agree to submit a copy of that decision to this Court.

B. *Surfrider Foundation v. Martins Beach 1, LLC et al., San Mateo County Superior Court, CIV520336, First District Court of Appeal, Nos. A114268 and A145176*

Plaintiffs appealed the superior court's judgment in favor of Surfrider Foundation. That appeal is fully briefed, including *amici* on behalf of both parties and supplemental briefing requested by the court. Oral argument was held on June 15, 2017, and the court took the matter under submission. The court has ninety (90) days from the oral argument to issue a decision. Within seven (7) days of a decision being issued by the court of appeal, the parties agree to submit a copy of that decision to this Court.

II. THE STATUS OF EX-OFFICIO, NON-VOTING MEMBERS

In their motion to dismiss, the California Coastal Commission Defendants ("CCC defendants") stated that "eight of the [CCC defendants] are ex-officio non-voting members or alternate ex officio non-voting members of the Commission – who have no legal authority to vote on or otherwise act on a permit application or an enforcement matter." CCC Mot. at 7. Those

eight defendants are: John Laird, Secretary for Natural Resources, current ex-officio member of the Coastal Commission; Brian Kelly, Secretary of the California State Transportation Agency, current ex-officio member of the Coastal Commission; Betty Yee, State Controller, former ex-officio member of the Coastal Commission; Thomas Gibson, current alternate ex-officio member designated by Secretary Laird; Janelle Beland, former alternate ex-officio member designated by Secretary Laird; Bruce April, former alternate ex-officio member designated by Secretary Kelly; Anne Baker, former alternate ex-officio member designated by Controller Yee; and Cindy Aronberg, former alternate ex-officio member designated by Controller Yee (collectively, “the eight ex-officio defendants”).

This Court ordered the parties to meet and confer about whether Plaintiffs are willing to dismiss the eight ex-officio defendants from this lawsuit. The parties have met and conferred on this issue, and Plaintiffs are willing to dismiss the eight ex-officio defendants on the condition that the remaining CCC defendants will not later invoke the dismissal of the eight ex-officio defendants as a ground to argue that Plaintiffs have sought or obtained incomplete relief, or relief from the wrong parties. That condition would apply solely to arguments specifically based on the dismissal of the eight ex-officio defendants, and would not constrain any other arguments the remaining CCC defendants may make. The CCC defendants agree to dismissal with that condition.

Finally, the parties note that defendant Betty T. Yee is named as a defendant in two separate official capacities— first in her capacity as a nonvoting, ex-officio member of the CCC, and second in her capacity as a member of State Lands Commission. The parties agree that Ms. Yee would be dismissed only in her capacity as a member of the CCC, and would remain a defendant in her capacity as a member of the SLC.

Respectfully submitted,

[signatures on following page]

1 Dated: July 7, 2017

COTCHETT, PITRE & McCARTHY, LLP

2 By: /s/ Eric J. Buescher
ERIC J. BUESCHER

3 **OFFICE OF THE SAN MATEO COUNTY COUNSEL**

4 JOHN C. BEIERS
5 JOHN D. NIBBELIN
6 KIMBERLY MARLOW
MELISSA D. ANDRIKOPOLOUS

7 *Attorneys for Defendants Steve Monowitz and*
8 *County of San Mateo*

9 Dated: July 7, 2017

CALIFORNIA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

10 By: /s/ Carlos A. Mejia
11 CARLOS A. MEJIA
12 DAVID G. ALDERSON

13 *Attorneys for Defendants Effie Turnbull-Sanders, et al., in*
14 *their Individual and Official Capacities as the California*
Coastal Commission

15 Dated: July 7, 2017

CALIFORNIA DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

16 By: /s/ Joel S. Jacobs
17 JOEL S. JACOBS

18 *Attorneys for Defendants Lt. Gov. Gavin Newsom, Betty T.*
19 *Yee, and Michael Cohen, Individually and in their Official*
20 *Capacity as the State Lands Commissions*

21 Dated: July 7, 2017

HOPKINS & CARLEY

22 By: /s/ Jeffrey E. Essner
23 JEFFREY E. ESSNER
24 ALLONN E. LEVY
DORI YOB KILMER

KIRKLAND & ELLIS, LLP

25 By: /s/ Erin E. Murphy
26 ERIN E. MURPHY (admitted *pro hac vice*)

27 *Attorneys for Plaintiffs Martins Beach 1, LLC*
28 *and Martins Beach 2, LLC*